

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:19-CV-00090-MOC-DSC**

MY'KA EL,

Plaintiff,

v.

**R. PRESTON, JR., M. WILDE,
AND CHARLOTTE MECKLENBURG
POLICE DEPARTMENT,**

Defendants.

ORDER

THIS MATTER is before the Court on the “Motion for Stay Pursuant to Servicemembers Civil Relief Act” (document # 10) filed May 15, 2019. No party has filed a response to the Motion. For the reasons set forth therein, the Motion will be granted.

The Servicemembers Civil Relief Act, 50 U.S.C. § 3901 to 4043, as specifically authorized by 50 U.S.C. § 3932, allows a stay to be granted to a plaintiff or defendant who, “is in military service or within 90 days after termination or release from military service and has received notice of the action or proceedings.” 50 U.S.C. § 3932 (a). Defendant Wilde is currently on active duty and received service of the summons by and through his counsel. Therefore, the “Servicemembers Civil Relief Act” is applicable to him.

The relevant provision provides that “at any stage before final judgement in a civil action or proceeding in which a servicemember is a party... the court may on its own motion, and shall

upon application by the servicemember, stay the action for a period of not less than 90 days...” 50 U.S.C. § 3932(b)(1). Pursuant to the Act, the following conditions must be met:

(A) A letter or other communication setting forth facts stating the manner in which current military duty requirements affect the servicemembers ability to appear and stating a date when the servicemember will be available to appear.

(B) A letter or communication from the servicemember’s commanding officer stating that the servicemember’s current military duty prevents appearance and that military leave is not authorized for the servicemember at the time of the letter.

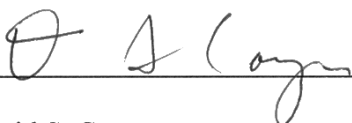
50 U.S.C. § 3932(b)(2). Defendant Wilde attached the required letters to this Motion. See Document #10, Ex. 1 and 2.

THEREFORE, the Court orders this action is **STAYED** until completion of Defendant Wilde’s active military duty. Counsel for Defendant Wilde shall file notice with the Court within fourteen days of the conclusion of Defendant Wilde’s active military duty.

The Clerk is directed to send copies of this Order to counsel for the parties, including but not limited to moving counsel, and to the Honorable Max O. Cogburn, Jr..

SO ORDERED.

Signed: June 6, 2019



David S. Cayer
United States Magistrate Judge

